

DUNN  
C.P.

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-187825

DATE: January 3, 1978

MATTER OF: William D. Vogel - Relocation Expenses - Reconsideration

DIGEST: An employee claims relocation expenses on basis that his transfer was in the best interest of the Government and claims his request was denied because of budget constraints. Record reveals that budgetary limitations was not basis for denial. Claim was properly denied as transfer was for convenience of employee.

This decision is in response to a request by William D. Vogel for reconsideration of our decision B-187825, February 11, 1977, which sustained the disallowance by our Claims Division of his claim for relocation expenses incident to a permanent change of station from Washington, D.C., to Tucson, Arizona. Mr. Vogel's claim was disallowed on the basis that it is within the discretion of the employing agency to determine whether a transfer is in the interest of the Government or for the convenience of the employee and because the Department of Justice, exercising that discretion, had determined the transfer to be for the convenience of the employee. The facts of this case were fully stated in our decision of February 11, 1977, and will not be repeated except as pertinent to the present discussion of the case.

Mr. Vogel poses the following question which serves as his basis for reconsideration: "Does the EOUSA [Executive Office for U.S. Attorneys] have the authority to deny a claim for relocation expenses on the basis of a long standing erroneous policy of refusal to pay such claims which is based solely upon budgetary limitations without any independent determination of whose interest is primarily served by the transfer?" The thrust of Mr. Vogel's appeal is that EOUSA denied his request because of budgetary limitations without a proper determination as required by para. 2-1.3 of the Federal Travel Regulations as to whether or not his transfer was in the interest of the Government.

Mr. Vogel's suggestion to the contrary, budgetary constraints do not appear to have been the basis for the agency's action on the question of reimbursement of his relocation expenses. This is so because the record before this Office contains a specific finding that Mr. Vogel's transfer was primarily for his convenience.

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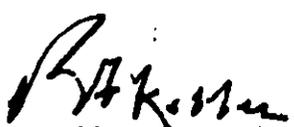
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Applicable decisions of this Office set forth guidelines to assist agencies in making such determination. For instance, B-185077, May 27, 1976, three rules with regard to such determinations read as follows:

"1 If an employee has taken the initiative in obtaining a transfer to a position in another location, an agency usually considers such transfer as being made for the convenience of the employee or at his request, 2 whereas, if the agency recruits or requests an employee to transfer to a different location it will regard such transfer as being in the interest of the Government. 3 Of course, if an agency orders the transfer and the employee has no discretion in the matter, the employee is entitled to reimbursement of moving expenses."

ECUSA made an affirmative determination in accordance with FTR para. 2-1.3 that Mr. Vogel's transfer was primarily for his own convenience. It appears from the record that he comes under the first rule stated in B-185077, supra, quoted above, and the transfer was properly considered as being for his convenience. Nothing in the request for reconsideration is persuasive to the contrary.

In view of the above, we find no basis that would warrant changing the conclusion reached in our decision of February 11, 1977. Therefore, we again sustain the disallowance of Mr. Vogel's claim for relocation expenses.

  
Deputy Comptroller General  
of the United States